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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 RONALD BUZZARD, JR.,

9 Plaintiff,

10 v.

11 WASHINGTON DEPARTMENT OF  
12 CORRECTIONS, et al.,

13 Defendants.

Case No. C12-5047BHS

ORDER ADOPTING REPORT  
AND RECOMMENDATION

14 This matter comes before the Court on the Report and Recommendation (“R&R”) of  
15 the Honorable J. Richard Creatura, United States Magistrate Judge (Dkt. 7) and Plaintiff  
16 Ronald Buzzard Jr.’s (“Buzzard”) objections to the R&R (Dkt. 10).


17 On January 26, 2012, Judge Creatura granted Buzzard leave to proceed in forma  
18 pauperis and accepted Buzzard’s civil rights complaint. Dkts. 5 & 6. On January 27, 2012,  
19 Judge Creatura issued the R&R recommending that the Court dismiss the complaint without  
20 prejudice and without leave to amend because Buzzard fails to state a claim upon which  
21 relief may be granted. Dkt. 7. Judge Creatura found that Buzzard is challenging the fact and  
22 duration of imprisonment and concluded that Buzzard has no claim for a violation of his  
23 civil rights based upon the conviction “unless and until the conviction or sentence is  
24 reversed, expunged, invalidated, or impugned by the grant of a writ of habeas corpus.” *See*  
25 *Heck v. Humphrey*, 512 U.S. 477, 487 (1994).  
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1 Buzzard objects to the R&R and requests that the Court dismiss his request to be  
2 immediately released, stay the action and allow his claim for monetary damages to proceed  
3 if he succeeds on his writ for habeas corpus. Dkt. 10. The Court declines to stay this action  
4 pending the outcome of the habeas proceeding. Buzzard may subsequently file a civil rights  
5 action if he succeeds on his habeas petition.

6 The Court having considered the R&R, Buzzard's objections, and the remaining  
7 record, does hereby find and order as follows:

- 8 (1) The R&R is **ADOPTED**;  
9 (2) Buzzard's complaint is **DISMISSED without prejudice**;  
10 (3) Buzzard's other motions (Dkts. 8 & 9) are **DENIED as moot**;  
11 (4) Buzzard's in forma pauperis status is **VACATED**; and  
12 (5) This case shall be **CLOSED**.

13 DATED this 20th day of March, 2012.

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15 BENJAMIN H. SETTLE  
16 United States District Judge  
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